

Appl. No. 10/661,652

Reply to Office action of Nov. 9, 2005

Docket. No.: 022.0008 (1630)

REMARKS

In the November 9, 2005 Office Action, the Examiner allowed claims 17-40, 43, and 44, and rejected claims 2-15, 41, and 42. Claims 2-15 and 17-44 (42 total claims; 4 independent claims) remain pending in the application. Reconsideration of the application is respectfully requested in view of the following remarks.

I. Claim Rejections – 35 U.S.C. § 103

Claims 2-15 and 17-44 have been rejected under Section 103 based on a variety of combinations of references. More particularly, claims 41-42 stand rejected under 35 U.S.C. § 103 as being unpatentable over U.S. Pat. Pub. No. 2002/01139822 (the “Infanti reference”) in view of the Huang reference. Claims 10-12 stand rejected under 35 U.S.C. § 103 as being unpatentable over the Lanzl reference as modified by the Huang reference and further in view of U.S. Pat. Pub. No. 2003/0125725 (the “Woodward reference,” of record). Claim 13 stands rejected under 35 U.S.C. § 103 as being unpatentable over the Lanzl reference as modified by Huang and further in view of U.S. Pat. No. 6,809,699 (the “Chen reference,” of record). Claims 14-15 stand rejected under 35 U.S.C. § 103 as being unpatentable over the Lanzl reference as modified by the Huang reference and in further view of U.S. Patent No. 6,061,036 (the “MacDonald reference,” of record). All of these rejections are respectfully traversed.

Independent claim 41, as well as claims 2-9 and 42 which variously depend from claim 41, stand rejected under 35 U.S.C. § 103 as being unpatentable over U.S. Pat. No. 6,353,406 (the “Lanzl reference,” of record) in view of U.S. Pat. No. 5,220,335 (the “Huang reference,” of record).

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation to modify a reference or to combine the teachings of multiple references. Second, there must be a reasonable expectation of success. Third, the prior art must teach or suggest all of the recited claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, not in Applicants’ disclosure. Applicants respectfully submit that the Examiner has not met all of the above criteria.

With respect to independent claim 41, the Examiner maintains the argument that “[i]t would have been obvious to one having ordinary skill in the art to employ [the] Huang antenna array to [the] tag system in order to achieve highly directional antenna patterns and provide a low profile antenna as well.”

This conclusion is unsupportable for two reasons. First, neither of the reference suggest, teach, or otherwise disclose a “portable/handheld device” as recited in claim 41 as previously amended. Thus, assuming, *arguendo*, that the references were combined as the Examiner suggests, the resulting combination would not include each and every element of the pending claims. Second, there is no suggestion in either reference to combine the references in the way suggested by the Examiner. The Examiner is engaging in impermissible hind-sight reconstruction and using Applicant’s disclosure as a roadmap for making the combination. Neither Huang nor Lanzl include any suggestion to combine the use of high-directionality antenna patterns and low profile antenna elements.

Claim 41 is also rejected based on the combination of the Infanti and Huang references. The Infanti reference is generally directed to a holster for use with a handheld device (e.g., a RIM Blackberry-shaped device), but generally references a handheld device at paragraphs 57-58 of the specification. Again, the Examiner is engaging in impermissible hind-sight reconstruction and using Applicant’s disclosure as a roadmap for making the suggested combination. With respect to dependent claims 2-15 and 42, none of the cited references (including the Woodward, Chen, and Macdonald references) cure the defects in the Huang, Lanzl, and Infanti references. Accordingly, for at least the reasons stated above, Applicants respectfully request that the rejections under 35 U.S.C. § 103 be withdrawn.

II. Allowable Subject Matter

Applicants acknowledge that claims 17-40, 43, and 44 are allowable as indicated on the Office Action Summary. Paragraph 7 of the Office Action states that claims 17-20 are objected to, but it is believed that this was a typographical error and/or a section inadvertently held over from the previous Office Action.

III. Conclusion

In view of Applicants' amendments and remarks, it is respectfully submitted that the Examiner's objections and rejections under 35 USC § 103, have been overcome. Accordingly, Applicants respectfully submit that the application is in condition for allowance, and such allowance is therefore earnestly requested. Should the Examiner have any questions or wish to further discuss this application, Applicants request that the Examiner contact the Applicants' attorneys at the telephone number below.

If for some reason Applicants have not requested a sufficient extension and/or have not paid a sufficient fee for this response and/or for the extension necessary to prevent abandonment on this application, please consider this as a request for an extension for the required time period and/or authorization to charge Deposit Account No. 50-2091 for any fee which may be due.

Respectfully submitted,
INGRASSIA FISHER & LORENZ

Dated: 1/31/06, 2006

By: 
Daniel R. Pote
Reg. No. 43,011
(480) 385-5060